10/12/07

(26)

HIGH COURT OF CHHATTISGARH AT BILASPUR
(Division Bench)

Coram: Hon'ble Shri Jagdish Bhalla, Ag.C.J. &
Hon'ble Shri Satish K. Agnihotri, J.

Writ Petition No. 2442 of 2004

Petitioners

1. Krishna Iron Strips and Tubes Private Limited. A Company duly in corporated under the relevant provisions of the Companies Act 1956, having Its Factary and Office Act Industrial Area, Sarora, Raipur (Chhattisgarh).
2. Sunil Agrawal S/o. Shri Krishna Agrawal, aged about 44 years.
3. Sunil Agrawal S/o. Ramdhari Agrawal, aged about 32 years.

Both Directors of Krishna Iron Strits and Tubes Private Limited Industrial Area Sarora, Raipur.

Versus

Respondents

1. State of Chhattisgarh Through- The Secretary, Ministry of Finance and Revenue, Raipur.
2. The Inspector General of Registration and Superintendent of Stamps, Govt. of Chattisgarh, Presently working at Gwalior.
3. The District Registrar and Collector of Stamp, Raipur
4. The Bank of India, A body Corporate having Common Seal and Perpetual Succession, having Inter-alia amongst other Branches, a branch at Ravibhawan Sharada Chowk, Raipur (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

Shri P. K. Tulsiyan, Advocate for the petitioners.

Shri Vinay Harit, Deputy Advocate General for the respondents No. 1 to 3.

None for the respondent No.4.

ORAL ORDER

(Passed on this 7th day of December, 2007)

The following oral order of the Court is passed by

Hon'ble Shri Jagdish Bhalla, Acting C.J.

Learned counsel appearing for the parties agree that this case is covered by the judgment and order dated 11.3.2005 passed by this Court in W.P.No. 4276/96 (Murarilal Agrawal & another Vs. The State of M.P. & others). Accordingly this petition stands disposed of with the same terms and conditions, which are as follows:-

(a) There is a difference between the two concepts, namely, stamp duty and rate of duty;

(b) The State Legislature has the competence to provide the rates of stamp duty as per Entry 63 read with Entry 44 of List-III of the Seventh Schedule of the Constitution;

(c) There is no discrimination because a document relating to immovable property is liable to extra stamp duty under Section 75 of the 1993 Act because it is situated within the block whereas a similar property is not liable to excess duty solely on the ground it is situated within the Municipal area;

(d) Section 75 of the 1993 Act is intra vires and the proviso to Section 75 is to be given retrospective effect from the date when Section 75 came into force i.e. 25/01/1994; and

(e) The retroactivity would have limited effect so that the persons who have not paid the stamp duty would be liable to pay under the proviso but the persons who have paid under the main provision would not be entitled to refund."

Certified copy, as per Rules.

Sd/-

Acting Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Thakur